

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

July 28, 2003

At 9:35 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Davis, Associate Justice; Kolkey, Associate Justice; and Rios, bailiff.

C040832 WALTZ v. BADGER TECHNOLOGY, etc.

Cause called. Stuart L. Smits argued for appellant. Charles B. Klinedinst argued for respondent. Cause submitted.

At 9:55 a.m., the court recessed. At 9:56 a.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Kolkey, Associate Justice.

C038386 MARTIN v. ALEXANDER et al.

At 9:59 a.m., the court recessed. At 10:04 a.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C039031 THE PEOPLE v. WRIGHT

Cause called. Madeline McDowell, court appointed counsel, argued for appellant. Aaron R. Macguire, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:35 a.m., the court recessed. At 10:43 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C033854 THE PEOPLE v. KINEY

Cause called. Mark Hart, court appointed counsel, argued for appellant. Rachelle A. Newcomb, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:16 a.m., the court recessed. At 2:04 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Davis, Associate Justice.

C040556 THE PEOPLE v. JACKSON

Cause called. Richard Doctoroff, court appointed counsel argued for appellant. Tiffany S. Shultz, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:15 p.m., the court recessed. At 2:17 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Kolkey, Associate Justice.

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July 28, 2003, continued

C038542 THE PEOPLE v. SLAFFEY et al.

Consolidated with

C038666 THE PEOPLE v. RAMOS

Cause called. Scott Concklin, court appointed counsel, argued for appellant Irwin. Kyle Gee, court appointed counsel, argued for appellant Slaffey. Mark Greenberg, court appointed counsel argued for appellant Ramos. Susan Rankin Bunting, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:23 p.m., the court recessed. At 3:25 p.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

C040864 WOOD et al. v. COUNTY OF SAN JOAQUIN et al.

Consolidated with

C042207 WOOD et al. etc. v. CITY OF LODI

Cause called. David M. Ingram argued for appellants. Randall A. Hays argued for and D. Stephen Schwabauer appeared only for respondent City of Lodi. Sheryle L. Sparks, county counsel, argued for respondent County of San Joaquin. William A. Krabbenhoft, Deputy Attorney General, argued for respondent State of California. Cause submitted.

At 4:00 p.m., the court recessed until 9:30 a.m., Monday August 18, 2003.

C040299 THE PEOPLE v. EVERSOLL

(Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We concur: Davis, Acting P.J.

Hull, J.

C042149 THE PEOPLE v. GREEN

(Not for Publication)

The judgment is affirmed.

RAYE, Acting P.J.

We concur: Morrison, J.

Hull, J.

C043631 WEBER v. LIMA

BY THE COURT:

Pursuant to the written request of the appellant, the appeal filed March 19, 2003, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 20 (c)(2).)

SCOTLAND, P.J.

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- C039861 THE PEOPLE v. PARNELL (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We concur: Scotland, P.J.
Kolkey, J.
- C041656 THE PEOPLE v. LATHAM (Not for Publication)**
The judgment convicting defendant of violating Penal Code section 288, subdivision (a) (1) (count 2) is reversed. In all other respects the judgment is affirmed.
BLEASE, Acting P.J.
We concur: Sims, J.
Hull, J.
- C042041 THE PEOPLE v. JEFFERSON (Not for Publication)**
The judgment is affirmed.
SIMS, J.
We concur: Scotland, P.J.
Robie, J.
- C042210 THE PEOPLE v. HER (Not for Publication)**
The judgment is modified... In all other respects, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect this modification, and to send a copy of the amended abstract to the Department of Corrections.
DAVIS, Acting P.J.
We concur: Raye, J.
Robie, J.
- C042415 SYLVIA, as Public Guardian, etc. v. B.C. (Not for Publication)**
The order reappointing the conservator is affirmed.
RAYE, J.
We concur: Davis, Acting P.J.
Robie, J.
- C041339 In re STEVEN S.; THE PEOPLE v. STEVEN S. (Not for Publication)**
The judgment (order) is affirmed.
SCOTLAND, P.J.
We concur: Kolkey, J.
Robie, J.

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C039243 BEACH v. HARCO NATIONAL INSURANCE COMPANY

BY THE COURT:

It is ordered that the opinion filed herein on May 30, 2003, be modified as follows:...

There is no change in the judgment.

Defendant's petition for rehearing is denied.

FOR THE COURT:

BLEASE, Acting P.J.

MORRISON, J.

HULL, J.

July 30, 2003

C038245 THE PEOPLE v. WARNER (Not for Publication)

The finding that defendant is a habitual sexual offender under Penal Code section 667.71 is reversed. His convictions for three counts of Penal Code section 288, subdivision (a) and the finding that he has a prior serious felony are affirmed. The matter is remanded for resentencing.

MORRISON, J.

We concur: Blease, Acting P.J.

Davis, J.

C038451 THE PEOPLE v. NEWSOM (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Davis, J.

C039998 THE PEOPLE v. MARTINEZ (Not for Publication)

The judgment of conviction is affirmed. The cause is remanded for resentencing consistent with this opinion.

MORRISON, J.

We concur: Blease, Acting P.J.

Robie, J.

C041214 THE PEOPLE v. JONES, JR. (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Davis, Acting P.J.

Kolkey, J.

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July 30, 2003, continued

C042088 THE PEOPLE v. OBRYANT (Not for Publication)
The judgment is modified... As modified, the judgment is affirmed.
DAVIS, Acting P.J.
We concur: Nicholson, J.
 Hull, J.

C043063 In re JAMES G.; THE PEOPLE v. JAMES. G. (Not for Publication)
The judgment is affirmed.
SIMS, J.
We concur: Scotland, P.J.
 Robie, J.

C042530 In re L.B.; SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES v. GREGORY N. et al. (Certified for Publication)
THE COURT:
The opinion in the above-entitled matter filed on June 30, 2003, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.
FOR THE COURT:
BLEASE, Acting P.J.
NICHOLSON, J.
MORRISON, J.

July 31, 2003

C040664 THE PEOPLE v. AUSTIN (Not for Publication)
The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment and to forward a certified copy to the Department of Corrections.
MORRISON, J.
We concur: Blease, Acting P.J.
 Robie, J.

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July 31, 2003, continued

- C040949 THE PEOPLE v. PEREZ (Not for Publication)**
We therefore direct the superior court to strike the restitution fine imposed upon revocation of appellant's probation pursuant to section 1202.4(b), amend the abstract of judgment accordingly, and forward a copy of the amended abstract to the Director of the Department of Corrections. The section 1202.4 (b) restitution fine imposed upon conviction remains in effect. In all other respects, the judgment is affirmed.
BLEASE, Acting P.J.
We concur: Nicholson, J.
 Morrison, J.
- C041100 THE PEOPLE v. WALKER (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Davis, Acting P.J.
 Kolkey, J.
- C041672 THE PEOPLE v. RUELAS (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Blease, Acting P.J.
 Robie, J.
- C041887 THE PEOPLE v. BROWN (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed. The trial court shall prepare an amended abstract of judgment and forward it to the Department of Corrections.
BLEASE, Acting P.J.
We concur: Nicholson, J.
 Morrison, J.
- C042138 THE PEOPLE v. MEGRAVE (Not for Publication)**
The judgment is modified... As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.
MORRISON, J.
We concur: Blease, Acting P.J.
 Robie, J.

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July 31, 2003, continued

- C042604 THE PEOPLE v. STEWART (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Blease, Acting P.J.
 Davis, J.
- C042742 THE PEOPLE v. McCARDLE (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Blease, Acting P.J.
 Nicholson, J.
- C043017 THE PEOPLE v. CORONA (Not for Publication)**
The trial court is directed to prepare a corrected abstract of judgment to reflect the term for the firearm use enhancement in the total column, that the underlying offense is described as criminal threats, and that custody credits were ordered pursuant to section 2933.1 and to forward a certified copy of the corrected abstract to the Department of Corrections. The judgment is affirmed.
MORRISON, J.
We concur: Blease, Acting P.J.
 Nicholson, J.
- C043118 THE PEOPLE v. HUNTER (Not for Publication)**
The judgment is affirmed.
Morrison, J.
We concur: Blease, Acting P.J.
 Nicholson, J.
- C039922 MAZDA MOTOR OF AMERICA, INC. v. CALIFORNIA NEW MOTOR VEHICLE BOARD and DAVID J. PHILLIPS BUICK-PONTIAC, INC. (Certified for Publication)**
The judgment is affirmed. Mazda shall recover its costs on appeal.
(CERTIFIED FOR PUBLICATION)
HULL, J.
We concur: Blease, Acting P.J.
 Raye, J.
- C039995 ZARAGOZA v. ZEFF et al. (Not for Publication)**
The judgments of dismissal are affirmed. Plaintiff shall reimburse defendants for their costs on appeal. (Cal. Rules of Court, rule 27 (a).)
SCOTLAND, P.J.
We concur: Blease, J.
 Raye, J.

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July 31, 2003, continued

C041679

C041991

In re H.W. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. R.W. et al. (Not for Publication)

The orders of the juvenile court terminating parental rights on August 27, 2002; denying the mother's petition for modification on August 15, 2002; and denying father's petitions for modification on August 19, 2002, and for rehearing on October 4, 2002, are affirmed. The father's appeals from the orders of July 9, 2002; July 18, 2002; and August 13, 2002, are dismissed as abandoned.

RAYE, Acting P.J.

We concur: Morrison, J.

Hull, J.

C041948

In re MATTHEW K.; DEPARTMENT OF SOCIAL SERVICES v. CHAD K. (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Nicholson, J.

C042139

In re ISABELLA D. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. RAINBOW H. (Not for Publication)

The orders of the juvenile court are reversed and the matter is remanded to the juvenile court with directions to order DHHS to provide proper notice of the proceedings to the Chippewa and Omaha tribes under the ICWA. If, after receiving notice under the ICWA, no tribe indicates the minors are Indian children within the meaning of the ICWA, then the juvenile court shall reinstate the orders.

DAVIS, Acting P.J.

We concur: Hull, J.

Robie, J.

C042358

In re ANGEL C.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. TRISHA D. (Not for Publication)

The order is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Nicholson, J.

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July 31, 2003, continued

C044137 In re MARY R.; CHILDREN'S SERVICES DIVISION v. DEBORAH R.

C043536 In re MARY R.; CHILDREN'S SERVICES DIVISION v. DEBORAH R.

BY THE COURT:

The motion of appellant for consolidation of the above cases is granted. The cases are ordered consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

Respondent's combined brief is due on or before August 25, 2003.

SCOTLAND, P.J.

August 1, 2003

C040317 THE PEOPLE v. JOHNSON (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.
 Robie, J.

C042146 THE PEOPLE v. CABRERA (Not for Publication)

The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect these modifications, and to forward a certified copy of the amended abstract to the Department of Corrections.

SCOTLAND, P.J.

We concur: Sims, J.
 Robie, J.

C042145 WHELIHAN v. ESPINOZA (Certified for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.
 Robie, J.

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The Minutes

August 1, 2003, continued

**C041310 SAN JOAQUIN HELICOPTERS v. DEPARTMENT OF FORESTRY et al. and
DYNCORP TECHNICAL SERVICES (Certified for Partial Publication)**
THE COURT:

The opinion in the above-entitled matter filed on July 2, 2003, was not certified for publication in the Official Reports. For good cause, it now appears that the opinion should be partially published in the Official Reports and it is so ordered.

FOR THE COURT:

SCOTLAND, P.J.

MORRISON, J.